IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND SIX

PRESENT
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.35943 of 1998

Between:

1.K.Madhu Babu, and others.

..... PETITIONERS

AND

1.Sri Venugopala Primary Agriculture Co-op credit Society Ltd., Yarnagudem village Devarapalli Mandal, W.G.District, Rep. by its Secretary, and others.

.....RESPONDENTS

ORDER:

This Writ Petition is filed seeking to declare the action of the respondents proposing to sell the lands mortgaged by the petitioners in the public auction w.e.f., 29-12-1998 onwards or otherwise to recover crop loans given on the basis of book debts without settlement of the disputed claims as contemplated under Sections 61 & 62 of the A.P.Co-operative

Societies Act (for short 'the Act') as arbitrary and illegal.

It appears that the petitioners are tobacco growers. According to them, they have obtained crop loans from the first respondent-Society and their crops are insured under the Crop Insurance Scheme. The entire area where the petitioners are growing tobacco was affected by drought due to failure of monsoon and the same was gazetted in the District Gazette. It is the case of the petitioners that the first respondent-Society is supposed to claim the amounts from the Insurance Company but not from them. Further, no notice of any kind was issued or enquiry as required under Section 61 of the A.P.Co-operative Societies Act was conducted and no award was passed.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioners. It is asserted that since the loans granted to the petitioners were for commercial crops like tobacco and sugar cane, the Crop Insurance Scheme is not applicable to their crops. There is no necessity of settling the disputes under Sections 61 and 62 of the Act. The respondents referred the

matter to Arbitration Proceedings under Section 71 (1) (2) of the Act to adjudicate the dispute and Arbitrator passed an award, but the petitioners failed to repay the amounts. Therefore, the recoveries are being affected.

Be that as it may, since the applicability of the Crop Insurance Scheme itself is in dispute, and the petitioners were not put on notice or given an opportunity to explain their cases, I deem it appropriate to direct the respondents not to make any demand without considering the detailed representations to be made by the petitioners herein within a period of three weeks from today. The respondent-authorities shall take up the said representations, dispose them of on merits and also decide as to whether the Crop Insurance Scheme covers commercial crops like tobacco or not. The enquiry shall be proceeded as per Chapter VIII of the Andhra Pradesh Co-operative Societies Act.

Writ Petition is, accordingly, disposed of. No costs.

07-07-2006

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